MMB

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

17-cv-1780

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Courtney Farina & Emily Monkman

DEFENDANTS

Medical Supply, Inc.

17 1780

(b) County of Residence of First Listed Plaintiff: Delaware
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant: Delaware
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Murphy Law Group, LLC
Eight Penn Center, Suite 2000
1628 J.F.K. Blvd., Philadelphia PA 19147, (267) 273-1054

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)* *(For Diversity Cases Only)*

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☒ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 et seq.

Brief description of cause:
Unpaid overtime compensation and retaliation under the FLSA.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______ DOCKET NUMBER [redacted]

DATE: 04/17/2017

SIGNATURE OF ATTORNEY OF RECORD

APR 17 2017

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

MMB

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Courtney Farina: 23 W. Ridley Avenue, 2R, Ridley Park, PA 19078; Emily Monkman: 1031 7th Avenue, Folsom, PA 19033

Address of Defendant: 10 Poulson Avenue, Essington PA 19029

Place of Accident, Incident or Transaction: 10 Poulson Avenue, Essington PA 19029

(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☐

Does this case involve multidistrict litigation possibilities? Yes☐ No☒

RELATED CASE, IF ANY:

Case Number: ____________ Judge ____________ Date Terminated: ____________

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
   Yes☐ No☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
   Yes☐ No☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
   Yes☐ No☐

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases*:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☒ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
    (Please specify) ____________

B. *Diversity Jurisdiction Cases*:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
   (Please specify) ____________

ARBITRATION CERTIFICATION

(*Check Appropriate Category*)

I, Michael Murphy, Esq., counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: April 17, 2017 Michael Murphy, Esq. 91262

Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

APR 17 2017

DATE: April 17, 2017 Michael Murphy, Esq. 91262

Attorney-at-Law Attorney I.D.#

MMB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MMB

CASE MANAGEMENT TRACK DESIGNATION FORM 17 1780

Courtney Farina & Emily Monkman	:	CIVIL ACTION
v.	:	
Medical Supply, Inc.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

April 17, 2017	Michael Murphy, Esq.	Plaintiffs
Date	**Attorney-at-law**	**Attorney for**
(267) 273-1054	(215) 525-0210	murphy@phillyemploymentlawyer.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

APR 17 2017

M L G
MURPHY LAW GROUP, LLC

DEDICATED TO PROTECTING EMPLOYEE RIGHTS

ATTORNEYS

MICHAEL MURPHY**
MICHAEL C. GROH***
ERICA E. KANE**
DANIEL ORLOW**
JESSICA L. JONES*

*(Admitted in PA)
**(Admitted in PA & NJ)
***(Admitted in PA, NJ, & NY)

April 17, 2017

17 1780

Via Hand-Delivery

Clerk of Court
United States District Court
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

Re: Courtney Farina & Emily Monkman v. Medical Supply, Inc.

Dear Sir/Madam,

Enclosed, for filing with respect to the above-referenced matter, please find an original and two copies of the Plaintiff's Civil Action Complaint, a Civil Cover Sheet, and a check made payable to Clerk, United States District Court, in the amount of $400.00. Please time-stamp the extra copy of the Complaint and return it to me in the self-addressed envelope I have enclosed. A PDF copy of the Complaint has been saved on the enclosed disk.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance.

Very truly yours,

Michael Murphy

MM/jw
Enclosures
cc: Courtney Farina (via electronic mail)
Emily Monkman (via electronic mail)

APR 17 2017

M L G

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#40 MMB MMB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COURTNEY FARINA 23 W. Ridley Avenue, 2R Ridley Park, PA 19078 & EMILY MONKMAN 1031 7th Avenue Folsom, PA 19033 on behalf of themselves and all others similarly situated Plaintiffs, v. MEDICAL SUPPLY, INC. 10 Poulson Avenue Essington, PA 19029 Defendant.	CIVIL ACTION NO. 17 1780 **JURY TRIAL DEMANDED**

COLLECTIVE AND CLASS ACTION COMPLAINT

Plaintiffs, Courtney Farina ("Farina") and Emily Monkman ("Monkman") (hereinafter collectively "Plaintiffs"), by and through their undersigned attorney, for their Collective and Class Action Complaint against Medical Supply, Inc. ("Defendant"), allege as follows:

NATURE OF THE ACTION

1. Plaintiffs initiate this action, on behalf of themselves and all others similarly situated, contending that Defendant violated their rights under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 et seq., the Pennsylvania Minimum Wage Act ("PMWA"), 43 P.S. § 333.100 *et seq.*, and the Pennsylvania Wage Payment and Collection Law ("WPCL"), 43 P.S. §

260.1 *et seq.* Specifically, Plaintiffs allege that Defendant failed to pay them and others similarly situated overtime compensation pursuant to the requirements of the FLSA/PMWA and further failed to pay them wages which were earned, due, and owing under the WPCL. Plaintiffs, who are former employees of Defendant, also contend that they were terminated by Defendant in retaliation for complaining about Defendant's pay policies, which violate the provisions of the FLSA/PMWA.

2. Plaintiff Courtney Farina is a former employee of Defendant who was employed as a Biller. During the course of her employment, Farina regularly worked in excess of forty (40) hours per week, but was not properly compensated for her work in that Farina was not paid an overtime premium calculated at 1.5 times her regular rate of pay for all hours worked in excess of forty (40) hours in a workweek, as required by the FLSA and PMWA.

3. Plaintiff Emily Monkman is a former employee of Defendant who was employed as a Customer Service Representative. During the course of her employment, Monkman regularly worked in excess of forty (40) hours per week, but was not properly compensated for her work in that Monkman was not paid an overtime premium calculated at 1.5 times her regular rate of pay for all hours worked in excess of forty (40) hours in a workweek, as required by the FLSA and PMWA.

4. Plaintiffs bring this action under the FLSA, PMWA, and WPCL for monetary damages to seek redress for Defendant's willful, unlawful, and improper conduct.

PARTIES

5. Plaintiff Courtney Farina is a citizen of the United States and Pennsylvania and currently maintains a residence located at 23 W. Ridley Avenue, 2R, Ridley Park, PA 19078.

6. Plaintiff Emily Monkman is a citizen of the United States and Pennsylvania and currently maintains a residence located at 1031 7th Avenue, Folsom, PA 19033.

7. Defendant Medical Supply, Inc. is a corporation organized and existing under the laws of the State of Pennsylvania with a registered office address of 10 Poulson Avenue, Essington, PA 19029.

JURISDICTION AND VENUE

8. Plaintiffs incorporate the foregoing 7 paragraphs as if the same were fully set forth at length herein.

9. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 216(b), which provides, in relevant part, that suit under the FLSA "may be maintained against any employer . . . in any Federal or State court of competent jurisdiction." See 29 U.S.C. § 216(b).

10. This Court has supplemental jurisdiction over Plaintiffs' state law claims because those claims arise out of the same nucleus of operative fact as the FLSA claims.

11. This action is authorized and initiated pursuant to the FLSA.

12. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as it is an action arising under the laws of the United States.

13. The venue in this district is proper pursuant to 28 U.S.C. § 1391(b), as the parties reside in this judicial district, doing business therein, and the unlawful practices of which Plaintiffs are complaining were committed in the Commonwealth of Pennsylvania.

FLSA COLLECTIVE ACTION ALLEGATIONS

14. This action is brought as a collective action to recover unpaid overtime compensation, liquidated damages, unlawfully withheld wages, statutory penalties, and damages owed to Plaintiffs and all similarly situated current and former employees of Defendant.

15. Pursuant to 29 U.S.C. § 216(b) of the FLSA, Plaintiffs bring this action individually for themselves and on behalf of all other similarly situated persons presently or formerly employed by Defendant in the positions of "Biller" or "Customer Service Representative," or in positions with similar job duties who were subject to Defendant's unlawful pay practices and policies described herein and who worked for Defendant at any point in the three (3) years preceding the date the instant action was initiated (the members of the putative class are hereinafter referred to as the "Class Plaintiffs").

16. The precise number of similarly situated potential Class Plaintiffs can be easily ascertained by Defendant. These employees can be identified and located using Defendant's payroll and personnel records. Potential Class Plaintiffs may be informed of the pendency of this Collective Action by direct mail and/or publication.

17. Pursuant to 29 U.S.C. § 216(b), this action is properly maintained as a collective action because all the class members are similarly situated. Plaintiffs and other similarly situated employees were similarly not paid an overtime premium for all hours worked in excess of forty (40) in a workweek, had the same job classification and job duties, and were subject to the same uniform policies, business practices, payroll practices, and operating procedures. Further, Defendant's willful policies and practices, which are discussed more fully in this Collective and Class Action Complaint, whereby Defendant failed to pay Plaintiffs and Class Plaintiffs an overtime premium for all hours worked over forty (40) hours in a workweek, has affected Plaintiffs and the Class Plaintiffs in the same fashion.

18. Plaintiffs will request the Court to authorize notice to all current and former similarly situated employees employed by Defendant, informing them of the pendency of this

action and their right to "opt-in" to this lawsuit pursuant to 29 U.S.C. § 216(b), for the purpose of seeking unpaid compensation, overtime compensation, and liquidated damages under the FLSA.

CLASS ACTION ALLEGATIONS

19. Plaintiffs bring this action on behalf of themselves and on behalf of the following state-wide class of similarly situated individuals, pursuant to Rule 23 of the Federal Rules of Civil Procedure:

> All persons presently or formerly employed by Defendant during the last three (3) years in the positions of "Biller" or "Customer Service Representative" or in positions with similar job duties who were denied overtime compensation for work performed in excess of forty (40) hours in a workweek.

20. The members of the Class are so numerous that joinder of all members is impractical. Class members may be informed of the pendency of this Class Action by direct mail.

21. Pursuant to Federal Rule of Civil Procedure 23(a)(2), there are questions of law and fact common to the Class, including, but not limited to:

a. Whether Plaintiffs and the Class are entitled to overtime compensation for services rendered in excess of forty (40) hours per week under the PMWA;

b. Whether Plaintiffs and the Class worked in excess of forty (40) hours per week;

c. Whether Plaintiffs and the Class have suffered and are entitled to damages, and, if so, in what amount;

d. Whether Defendant failed to pay Plaintiffs and the Class wages and overtime wages in the period when said wages became due and owing in violation of the WPCL; and

e. Whether Plaintiffs and the Class are entitled to liquidated damages under the WPCL.

22. Plaintiffs' claims are typical of the claims of the Class members. Plaintiffs are former employees of Defendant who were employed in the positions of Biller and Customer

Service Representative and who have suffered similar injuries as those suffered by the Class members as a result of Defendant's failure to pay wages and overtime compensation. Defendant's conduct of violating the FLSA, PMWA, and WPCL has affected Plaintiffs and the Class in the exact same way.

23. Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs are similarly situated to the Class and have no conflict with the Class members.

24. Plaintiffs are committed to pursuing this action and have retained competent counsel experienced in class action litigation.

25. Pursuant to Rules 23(b)(1), (b)(2) and/or 23(b)(3) of the Federal Rules of Civil Procedure, this action is properly maintained as a class action because:

a. the prosecution of separate actions by or against individual members of the Class would create a risk of inconsistent or varying adjudication with respect to individual members of the Class that would establish incompatible standards of conduct for Defendant;

b. Defendant, by failing to pay overtime compensation when it is due and owing in violation of the FLSA, PMWA, and WPCL, has acted or refused to act on grounds generally applicable to the Class, thereby making equitable relief appropriate with respect to the Class as a whole; and

c. the common questions of law and fact applicable to the Class predominate over any questions affecting only individual members and a class action is superior to other available methods for the fair and efficient adjudication of this case, especially with respect to considerations of consistency, economy, efficiency, fairness, and equity, as compared to other available methods for the fair and efficient adjudication of the controversy.

d. A class action is also superior to other available means for the fair and efficient adjudication of this controversy because individual joinder of the parties is impractical. Class action treatment will allow a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense as if these claims were brought individually. Additionally, as the damages suffered by each Class member may be relatively small, the expenses and burden of individual litigation would make it difficult for the Class members to bring individual claims. The presentation of separate actions by individual Class members could substantially impair or impede the ability of the Class to protect their interests.

FACTS RELEVANT TO PLAINTIFFS' CLAIMS FOR UNPAID OVERTIME COMPENSATION

26. On or about August 29, 2016, Farina began working for Defendant as a Biller.

27. In her capacity as a Biller, Farina was scheduled to work from 8:00 a.m. to 4:30 p.m., Monday through Friday, with 30 minutes per day designated for an unpaid lunch break. Notwithstanding the foregoing, Farina was often required to work past the end of her scheduled shift. Accordingly, Farina often worked in excess of forty (40) hours per week.

28. On or about September 19, 2016, Monkman began working for Defendant as a Customer Service Representative.

29. In this capacity, Monkman was scheduled to work from 7:00 am to 3:30 p.m., Monday through Friday, with 30 minutes per day designated for an unpaid lunch break. However, similar to Farina, Monkman was also required to work past the end of her scheduled shift on various occasions. Accordingly, Monkman also routinely worked in excess of forty (40) hours per week.

30. At all times relevant hereto, Plaintiffs and Class Plaintiffs were subject to the same practices, policies, and procedures in relation to wages and break periods as described herein.

31. In accordance with Defendant's written policy governing break time, Plaintiffs and Class Plaintiffs were required to "clock out" of Defendant's time keeping system whenever they were on a break, regardless of how long the break actually lasted. This policy was communicated to Defendant's employees via Defendant's Employee Handbook. Specifically, Defendant's Employee Handbook indicates that "Any break greater than 15 minutes in duration or in which you leave the building grounds is not permitted, and will be deducted from your wages." Defendant's Employee Handbook further indicates that "[Employees] must be clocked out either for lunch, break, or end of day whenever you are not working, including restroom breaks, smoke breaks, taking personal calls, etc..." The foregoing policy of Defendant is hereinafter referred to as the "Unpaid Rest Break Policy."

32. Defendant's Unpaid Rest Break Policy was further communicated to Defendant's Employee's via an e-mail from Sandra Turner ("Ms. Turner"), Defendant's General Manager. Specifically, in an e-mail from Ms. Turner to Defendant's employees dated September 15, 2016, Ms. Turner explained that Defendant's employees should be clocked out whenever they were doing something that did not "pertain to MSI."

33. By way of example, Ms. Turner explained that employees should be clocked out when they (1) made or received personal phone calls; (2) made coffee upstairs; and (3) used the bathroom.

34. According to Section 785.18 of the Department of Labor, U.S. Wage and Hour Division, Regulations, "[r]est periods of short duration, running from 5 minutes to about 20

minutes, are common in industry. They promote the efficiency of the employee and are customarily paid for as working time. They must be counted as hours worked."

35. Defendant's Unpaid Rest Break Policy violates Section 785.18 and the FLSA in that Defendant did not count certain break periods of Plaintiffs and Class Plaintiffs as "hours worked."

36. Plaintiffs and Class Plaintiffs were classified as non-exempt employees under the FLSA and are therefore entitled to the payment of overtime compensation for work performed in excess of forty (40) hours in a work week.

37. As a result of Defendant's Unpaid Rest Break Policy, Plaintiffs and Class Plaintiffs worked in excess of forty (40) hours per week, but did not receive credit for all hours worked and as such, have been denied overtime compensation at a rate of at least 1.5 times their regular rates of pay for each hour that they worked in excess of forty (40) hours in a work week.

38. By way of example, during the workweek of December 5, 2016, Monkman performed over forty (40) hours of compensable work, but, as a result of Defendant's Unpaid Rest Break Policy, was not compensated at one and one half times her regular rate of pay for all hours worked over forty (40).

39. By way of further example, during the week of December 5, 2016, Farina also performed over forty (40) hours of compensable work, but, as a result of Defendant's Unpaid Rest Break Policy, was not compensated at one and one half times her regular rate of pay for all hours worked over forty (40).

40. According to Defendant's policies, practices, and procedures, including written documents, Plaintiffs and Class Plaintiffs are supposed to be paid on an hourly basis for all hours worked. Furthermore, according to Defendant's policies, practices, and procedures, including

written documents, Plaintiffs and Class Plaintiffs are supposed to be paid overtime compensation for all hours worked over forty (40) in a work week.

41. Plaintiffs and Class Plaintiffs performed the aforementioned compensable work and services pursuant to the requests of the agents, servants, and employees of Defendant.

42. By performing the work and services for Defendant, Plaintiffs and the Class Plaintiffs conferred a benefit to Defendant.

43. Despite requesting the aforementioned work and services to be performed and receiving the benefits of said work and services, Defendant has failed to compensate Plaintiffs and the Class Plaintiffs for all compensable work and services rendered.

44. As a result of Defendant's aforesaid illegal actions, Plaintiffs and the Class Plaintiffs have suffered damages.

FACTS RELEVANT TO PLAINTIFFS' INDIVIDUAL CLAIMS

45. In or about December 2016, both Farina and Monkman completed Quality Improvement Surveys (each a "QIS") provided to them by Ms. Turner.

46. In accordance with Defendant's policies and protocols, the QIS was designed to elicit feedback from Defendant's employees regarding ways in which the general terms and conditions of employment with Defendant could be improved.

47. In completing their respective Quality Improvement Surveys, both Monkman and Farina indicated that they believed Defendant's Unpaid Rest Break Policy violated the law.

48. The Quality Improvement Surveys completed by Monkman and Farina were reviewed by both Ms. Turner and Defendant's Owner, Mark Saltis ("Mr. Saltis").

49. Throughout the duration of their employment with Defendant, Monkman and Farina also discussed the illegality of Defendant's Unpaid Rest Break Policy via Spark, a piece of

real-time chat software that Defendant's employees were required to use for all intra-company communications made during work hours.

50. In addition to discussing the perceived illegality of Defendant's Unpaid Rest Break Policy with each other via Spark, Monkman and Farina also raised several verbal objections to the Unpaid Rest Break Policy with Ms. Turner and their direct supervisor, Jean (last name unknown) ("Jean LNU"). These verbal complaints were made by Farina and Monkman as recently as one week prior to their respective terminations.

51. On or about January 6, 2017, Farina was called into a meeting with Ms. Turner and was told that she (Ms. Turner) and Mr. Saltis had read Farina's Spark chats. Ms. Turner then informed Farina that, based upon the content of Farina's Spark chats with Monkman, Mr. Saltis believed it was time for a "separation of employment." Specifically, Ms. Turner indicated that Farina and Monkman did not use Spark in accordance with MSI policies and had made the entire work place "hostile." Farina's employment with Defendant was then terminated.

52. Approximately 20 minutes after Farina's termination meeting, Monkman was also called into a meeting with Ms. Turner. Just as she had done with Farina, Ms. Turner terminated Monkman's employment with Defendant on the grounds that she had made the work environment "hostile" and had not used the Spark chat in accordance with MSI policies.

53. As a result of the foregoing, Farina and Monkman believe and aver that the reasons provided for their respective terminations were pretextual and in retaliation for their complaints and objections to Ms. Turner, Jean LNU, and Mr. Saltis regarding the illegality of Defendant's Unpaid Rest Break Policy.

54. The pre-textual nature of the reasons proffered for Plaintiffs' respective terminations is underscored by the fact that Mr. Saltis, at a meeting of all Customer Service

Representatives held in November 2016, stated that MSI saved approximately $35,000.00 a month by having employees clock-out for breaks lasting under twenty minutes. Mr. Saltis also told the employees present at the meeting that he knew employees were generally unhappy with Defendant's Unpaid Rest Break Policy, but that receiving breaks was a privilege in the first place.

COUNT I
FAIR LABOR STANDARDS ACT
29 U.S.C. § 201, et seq.
FAILURE TO PAY OVERTIME COMPENSATION

55. Plaintiff incorporates herein by reference paragraphs 1 through 54 as though same were fully set forth at length herein.

56. Pursuant to Section 206(b) of the FLSA, all employees must be compensated for every hour worked in a workweek.

57. Moreover, Section 207(a)(1) of the FLSA states that employees must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of (40) forty hours per week.

58. According to the policies and practices of Defendant, Plaintiffs and Class Plaintiffs were required to work in excess of (40) forty hours per week. Despite working in excess of forty (40) hours per week, Plaintiffs and Class Plaintiffs were denied overtime compensation for compensable work performed in excess of forty (40) hours per week in violation of the FLSA.

59. The foregoing actions of Defendant and the policies and practices of Defendant violate the FLSA.

60. Defendant's actions were willful, not in good faith, and in reckless disregard of clearly applicable FLSA provisions.

61. Defendant is liable to Plaintiffs and Class Plaintiffs for actual damages, liquidated damages, and other equitable relief, pursuant to 29 U.S.C. § 216 (b), as well as reasonable attorney's fees, costs, and expenses.

WHEREFORE, Plaintiffs pray for the following relief on behalf of themselves and Class Plaintiffs:

A. An Order from this Court permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);

B. An Order from the Court ordering Defendant to file with this Court and furnish to the undersigned counsel a list of all names and addresses of all employees who have worked for Defendant during the preceding three (3) years as a Biller or Customer Service Representative, and authorizing Plaintiffs' counsel to issue a notice at the earliest possible time to these individuals, informing them that this action has been filed, of the nature of the action, and of their right to opt-in to this lawsuit if they worked for Defendant during the liability period, but were not paid compensation and/or overtime pay as required by the FLSA;

C. Adjudicating and declaring that Defendant's conduct as set forth herein and above is in violation of the FLSA;

D. Adjudicating and declaring that Defendant violated the FLSA by failing to pay compensation and/or overtime pay to Plaintiffs and Class Plaintiffs for compensable hours in excess of forty (40) hours per week and for all hours worked;

E. Awarding Plaintiffs and Class Plaintiffs back pay wages and/or overtime wages in an amount consistent with the FLSA;

F. Awarding Plaintiffs and Class Plaintiffs liquidated damages in accordance with the FLSA;

G. Awarding Plaintiff reasonable attorney's fees and all costs of this action, to be paid by Defendant, in accordance with the FLSA;

H. Awarding pre and post-judgment interest and court costs as further allowed by law;

I. Granting Plaintiffs and the Class Plaintiffs leave to add additional Plaintiffs by motion, the filing of written opt-in consent forms, or any other method approved by the Court; and

J. For all additional general and equitable relief to which Plaintiffs and the Class may be entitled.

COUNT II
PENNSYLVANIA MINIMUM WAGE ACT OF 1968
43 P.S. § 333 *et seq.*
FAILURE TO PAY OVERTIME COMPENSATION

62. Paragraphs 1 through 61 are hereby incorporated by reference as though same were fully set forth at length herein.

63. The Pennsylvania Minimum Wage Act provides that employers must pay certain "minimum wages," including overtime wages, to its employees. See 43 P.S. § 333.113.

64. The Pennsylvania Minimum Wage Act further provides that "employees shall be paid for overtime not less than one and one half (1.5) times the employee's regular rate" four hours worked in excess of forty (40) hours in a workweek. See 43 P.S. § 333.113.

65. By the actions alleged above, Defendant has violated the provisions of the Pennsylvania Minimum Wage Act of 1968 by failing to properly pay overtime compensation and for failing to properly pay Plaintiffs and Class Plaintiffs for all hours work.

66. As a result of Defendant's unlawful acts, Plaintiffs and the Class Plaintiffs have been deprived of overtime compensation in amounts to be determinate at trial, and are entitled to recovery of such amounts, together with interest, costs, and attorney's fees pursuant to Pennsylvania Minimum Wage Act of 1968, 43 P.S. § 333.113.

WHEREFORE, Plaintiffs, on behalf of themselves and the Class Plaintiffs, pray for judgment against Defendant as follows:

A. An Order certifying this case as a class action and designating Plaintiffs as the representatives of the Class and their counsel as class counsel;

B. An award to Plaintiffs and the Class for the amount of unpaid overtime compensation to which they are entitled, including interest thereon, and penalties subject to proof;

C. An award to Plaintiffs and the Class of reasonable attorney's fees and costs pursuant to the Pennsylvania Minimum Wage Act; and

D. An award to Plaintiffs and the Class for any other damages available to them under applicable Pennsylvania law, and all such other relief as this Court may deem proper.

COUNT III
PENNSYLVANIA WAGE PAYMENT AND COLLECTION LAW
43 Pa. Con. Stat. § 260.1 *et seq.*

67. Paragraphs 1 through 66 are hereby incorporated by reference as though same were fully set forth at length herein.

68. By its actions alleged above, Defendant has violated the provisions of the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq*., by failing to pay certain wages and benefits earned, due, and owing to Plaintiffs and Class Plaintiffs pursuant to Defendant's policies, practices, and agreements with Plaintiffs and Class Plaintiffs.

69. Plaintiffs and Class Plaintiffs are entitled to compensation for hours of work which they performed for Defendant and for which they were not properly compensated.

70. As a result of Defendant's unlawful acts, Plaintiffs and Class Plaintiffs have been deprived of compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, and liquidated damages, together with costs and attorney's fees pursuant to the WPCL.

WHEREFORE, Plaintiffs pray for relief on behalf of themselves and the Class to the fullest extent permitted by law including, but not limited to, the award of any and all damages Plaintiffs and the Class are entitled to under applicable law.

COUNT IV
As to Plaintiff Courtney Farina Individually
FAIR LABOR STANDARDS ACT
29 U.S.C. § 201, et seq.
RETALIATION

71. Paragraphs 1 through 70 are hereby incorporated by reference as though the same were fully set forth at length herein.

72. The actions of Defendant in terminating Farina's employment, as stated aforesaid, constitute unlawful retaliation in violation of the provisions of the FLSA entitling Farina to all appropriate damages and remedies available under the FLSA.

WHEREFORE, Farina prays for the following relief:

a. An Order awarding Farina back pay wages and front pay in an amount consistent with the FLSA;

b. An Order Awarding Farina liquidated damages in accordance with the FLSA;

c. An Order awarding Farina reasonable attorney's fees and all costs of this action, to be paid by Defendant, in accordance with the FLSA;

d. An Order awarding pre and post-judgment interest and court costs as further allowed by law; and

e. For all additional general and equitable relief to which Farina may be entitled.

COUNT V
As to Plaintiff Emily Monkman Individually
FAIR LABOR STANDARDS ACT
29 U.S.C. § 201, et seq.
RETALIATION

73. Paragraphs 1 through 72 are hereby incorporated by reference as though the same were fully set forth at length herein.

74. The actions of Defendant in terminating Monkman's employment, as stated aforesaid, constitute unlawful retaliation in violation of the provisions of the FLSA entitling Monkman to all appropriate damages and remedies available under the FLSA.

WHEREFORE, Monkman prays for the following relief:

a. An Order awarding Monkman back pay wages and front pay in an amount consistent with the FLSA;

b. An Order Awarding Monkman liquidated damages in accordance with the FLSA;

c. An Order awarding Monkman reasonable attorney's fees and all costs of this action, to be paid by Defendant, in accordance with the FLSA;

d. An Order awarding pre and post-judgment interest and court costs as further allowed by law; and

e. For all additional general and equitable relief to which Monkman may be entitled.

JURY DEMAND

Plaintiffs hereby demand a trial by jury as to all issue so triable.

Respectfully submitted,

MURPHY LAW GROUP, LLC

By: ____________________________

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Attorney for Plaintiff

Dated:

DEMAND TO PRESERVE EVIDENCE

The Defendant is hereby demanded to preserve all physical and electronic information pertaining in any way to Plaintiffs' employment, to their potential claims and their claims to damages, to any defenses to the same, including, but not limited to, electronic data storage, employment files, files, memos, job descriptions, text messages, e-mails, spreadsheets, images, cache memory, payroll records, paystubs, time records, timesheets, and any other information and/or data which may be relevant to any claim or defense in this litigation.